

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

QB WASH LLC
dba BLVD AUTO SPA,

Case No.: 21-40301-ess

Debtor.
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STIPULATION AND ORDER

This Stipulation and Order (the “Stipulation”) is made by and between David J. Doyaga, Sr., in his capacity as the duly appointed, qualified and serving Chapter 7 Trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of QB Wash LLC *dba* Blvd Auto Spa (the “Debtor”) and Wash Funding LLC (“WF”) (the Trustee and WF, collectively referred to as the “Parties” and each individually as the “Party”). The Trustee, by and through his undersigned counsel, and WF, by and through its undersigned counsel, agree to the facts and terms of the Stipulation as follows:

RECITALS

WHEREAS, on February 8, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 7, Title 11, United States Code (the “Bankruptcy Code”) in the Eastern District of New York (the “Bankruptcy Court”); and

WHEREAS, David J. Doyaga, Sr. was appointed interim Chapter 7 Trustee of the Debtor’s Estate and, by operation of law, became the permanent Chapter 7 Trustee of the Debtor’s Estate; and

WHEREAS, prior to the Petition Date, the Debtor operated a car wash and lube and was the lessee of the non-residential real property known as 138-77 Queens Boulevard and 138-11 87th Avenue, Jamaica, New York 11435 (the “Premises”); and

WHEREAS, on June 29, 2021, approximately seven (7) months prior to the Petition Date, WF recorded a UCC-1 (the “UCC”) with the New York State Department of State, File No. 202006298276994, asserting a lien on all items of personal property, fixtures and equipment located on, related to, or used in connection with car wash and lube located at the Premises (the “Personal Property”); and

WHEREAS, the Trustee identified that WF may be an insider of the Debtor; and

WHEREAS, the Estate has a cause of action to, among other things, avoid the UCC and relegate WF’s alleged lien as wholly unsecured (the “Cause of Action”); and

WHEREAS, the Parties have agreed that in an effort to avoid the costs and expenses associated with litigating the Cause of Action; it is therefore

AGREED BY AND BETWEEN THE PARTIES AND SO ORDERED THAT:

1. The UCC security interest is hereby set aside as a preference. WF irrevocably consents that it does not have a lien or security interest of any kind against any Personal Property in connection with the car wash and lube located at the Premises and in connection with the Debtor, and the security interest is preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code.

2. WF irrevocably consents that any Personal Property which WF had an alleged lien and or security interest in is property of the Debtor's Estate and will not contest the ownership of that property.

3. The Trustee is authorized to file a UCC-3 termination.

4. The Trustee reserves all rights as to any causes of action and or any Chapter 5 recoveries, and the Trustee reserves his rights to contest any proof of claim filed by, or on behalf of, WF.

5. This Stipulation represents the entirety of the understanding by and between the Parties.

6. The Parties hereby agree that each of them has had a full opportunity to participate in the drafting of this Stipulation by and through their respective counsel and, accordingly, any claimed ambiguity shall be construed neither for nor against either of the Parties.

7. This Stipulation shall be binding upon and inure to the benefit of the Parties hereto, and their respective executors, heirs, successors and assigns.

8. The person executing this Stipulation on behalf of each respective Party warrants and represents that he is authorized and empowered to execute and deliver this Stipulation on behalf of such Party.

9. The Parties to this Stipulation agree to bear their own costs and expenses, including attorneys' fees, arising out of this Stipulation.

10. This Stipulation is subject to the approval of the Bankruptcy Court.

11. This Stipulation shall be governed by the laws of the State of New York, the Bankruptcy Code and the Bankruptcy Rules.

12. The Stipulation may be executed in counterparts and a signature by facsimile or electronic signature shall be sufficient to bind the Parties hereto.

13. The Bankruptcy Court shall retain jurisdiction over this matter to determine any dispute that may arise hereunder.

Dated: May 28, 2021
Huntington, New York

Dated: May 27, 2021
New York, New York

Law Offices of Avrum J. Rosen, PLLC

McDermott Will & Emery

By: /s/ Avrum J. Rosen
Avrum J. Rosen

By: /s/ Timothy W. Walsh
Timothy W. Walsh

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Chapter 7 Trustee of the Estate of
QB Wash LLC dba Blvd Auto Spa*

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SO ORDERED